



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

Matter of: Star Food Processing, Inc.

File: B-270127

Date: January 18, 1996

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### DECISION

Star Food Processing, Inc. protests the award of a contract to So-Pak-Co, Inc. by the Defense Logistics Agency (DLA) under request for proposals (RFP) No. SPO300-95-R-7057 for pouched fruit components of the Meal, Ready-to-Eat (MRE) ration used to feed military personnel in the field.

We dismiss the protest.

The RFP contemplated award of a firm, fixed-price indefinite quantity contract for the production and supply of four different types of pouched fruit-mixed fruit, peaches, pears, and pineapples--to the offeror whose proposal represented the best value to the government. The corresponding contract line item (CLIN) for each type of pouched fruit consisted of 12 sub-CLINs with unit and extended prices for quantities of 162,354 units to be delivered each month over the course of the 12 month contract, for a total minimum quantity of 1,948,240 units of each type of pouched fruit to be ordered by DLA, and this was the amount upon which prices were evaluated. The RFP also contained a maximum order limitation of 2,532,712 units for each CLIN and a surge option clause, Defense Federal Acquisition Regulation Supplement § 252.217-7001, under which the offeror agrees in a national emergency to accelerate deliveries up to the maximum production delivery schedule established by pre-existing agreements with the agency.<sup>1</sup> The RFP reserved the right of the government to make more than one award, including on

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<sup>1</sup>These pre-existing agreements, known as Restricted Specified Base Production Planning Contracts, are used for military industrial base mobilization purposes. Prior to participating, a firm's facilities must be surveyed and approved by government production planning officials. See International Foods Retort Co., B-230921, July 14, 1988, 88-2 CPD ¶ 51. Maximum monthly production levels for each firm are established on DD Form 2575-1, Crisis Production Survey, Department of Defense, Industrial Base Program, which formed the basis upon which surge capacity was evaluated here.

the basis of industrial base considerations, and allowed offerors to indicate minimum/maximum quantity limitations.

The RFP's technical evaluation criteria consisted of two equally weighted factors: (1) past performance and (2) readiness and sustainability/surge. Under the RFP's evaluation scheme, technical merit was more important than price, but as proposals became more equal technically, price became more important. All four offerors, including Star, So-Pak-Co and Ameriquel Foods, Inc., received identical "good" and "excellent" ratings for the past performance criteria. For readiness and sustainability/surge, Star, Ameriquel, and the fourth offeror received a "good" rating, while So-Pak-Co received an "excellent" rating based on its greater surge capacity. Based on this difference, Star, Ameriquel, and the fourth offeror received an overall technical evaluation rating of "good," while So-Pak-Co received an overall rating of "excellent." DLA awarded the peaches CLIN to Ameriquel since that firm was the only offeror that did not unacceptably qualify its offer for that CLIN, and Star does not contest that award.<sup>2</sup> DLA awarded the three remaining CLINs--mixed fruit, pears, and pineapples--to So-Pak-Co after determining that So-Pak-Co's proposal represented the best value to the government based on its technical superiority, which DLA considered outweighed Star's and Ameriquel's slightly lower prices.<sup>3</sup>

Star essentially protests that DLA was not justified in rating So-Pak-Co's proposal as superior to that of Star, because So-Pak-Co's other contractual MRE commitments allegedly reduced its surge capacity below that of Star's.

We find that Star is not an interested party to protest the award of the pears and pineapples CLINs to So-Pak-Co. Another offeror, Ameriquel, offered lower prices for these CLINs than Star, and since Star and Ameriquel were rated technically equal--a rating which Star does not contest--Ameriquel rather than Star would be next in line for award for these two line items even if Star's protest allegations concerning the evaluation of So-Pak-Co's proposal were sustained. See Premier Nurse Staffing, Inc.-Recon., B-258288.3, Apr. 3, 1995, 95-1 CPD ¶ 174; Laidlaw Envtl. Servs. (GS), Inc.-Recon., B-245587.4, June 12, 1992, 92-1 CPD ¶ 513. Consequently, Star's protest of the award of these two CLINs is dismissed because Star lacks the direct economic interest necessary to be an interested party for pursuing the protest. *Id.*; Bid Protest Regulation, § 21.0(a), 60 Fed. Reg. 40,737, 40,739 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.0(a)).

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<sup>2</sup>So-Pak-Co did not submit an offer for the peaches CLIN.

<sup>3</sup>The fourth offeror only submitted prices for the mixed fruit and pineapples CLINs, which were higher than the prices offered by either So-Pak-Co, Star, or Ameriquel.

Further, Star is not an interested party to protest the mixed fruit award. Although Star submitted the low price for this item as evaluated by the agency,<sup>4</sup> even if we sustained Star's protest of the award of this CLIN to So-Pak-Co, Star could not receive award because it conditioned acceptance of its proposal upon receiving a commitment to order a minimum overall quantity of four million units. Since the minimum order quantity stated for each CLIN was 1,948,240 units, and the maximum order quantity per CLIN was stated to be 2,532,712 units, Star would have to be awarded at least one other CLIN in addition to the mixed fruit CLIN to satisfy its stated condition for award and, as described above, Ameriqua, not Star, is next in line for award for the other CLINs.

Accordingly, the protest is dismissed.

Comptroller General  
of the United States

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<sup>4</sup>We note that Ameriqua offered reduced prices based on the award of larger quantities, and if Ameriqua's prices for the mixed fruit CLIN are considered in light of the quantity already awarded to Ameriqua for the peaches CLIN, Ameriqua's price for mixed fruit is lower than Star's.